

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE:	)	
	)	BANKRUPTCY CASE NO.
HALLWOOD ENERGY, L.P., ET AL.,	)	
	)	09-31253-SGJ-11
Debtors.	)	
-----	)	
RAY BALESTRI, TRUSTEE OF THE	)	
HALLWOOD ENERGY I CREDITORS'	)	
TRUST,	)	
	)	CIVIL ACTION NO.
Appellant/Plaintiff,	)	
	)	3:11-CV-3359-G
VS.	)	
	)	ADVERSARY NO.
HUNTON & WILLIAMS, LLP, ET AL.,	)	10-03263
	)	
Appellees/Defendants.	)	

**ORDER ACCEPTING REPORT AND RECOMMENDATION**  
**OF THE UNITED STATES BANKRUPTCY COURT**

The United States Bankruptcy Court made a report and recommendation in this case. *See* Bankruptcy Court's Report and Recommendation to District Court (docket entry 9). Objections to that recommendation were filed by both the plaintiff and the defendants. *See* Objections and Brief of Plaintiff Ray Balestri, Trustee of the Hallwood Energy I Creditors' Trust, to the Bankruptcy Court's Report and

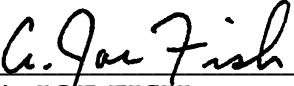
Recommendation to District Court (docket entry 12); Defendants' Objections to Bankruptcy Court's Report and Recommendation to District Court (docket entry 13). The parties also filed responses to each other's objections, *see* Plaintiff's Response Brief in Opposition to Defendants' Objections to Bankruptcy Court's Report and Recommendation to District Court (docket entry 22); Defendants' Response to Plaintiff's Objections to Bankruptcy Court's Report and Recommendation and Brief in Support (docket entry 21), and the defendants filed a reply to the plaintiff's response. *See* Reply Supporting Defendants' Objections to Bankruptcy Court's Report and Recommendation to District Court (docket entry 25). The district court has reviewed *de novo* the bankruptcy court's recommendation. The court **ACCEPTS** the report and recommendation of the United States Bankruptcy Court in all respects **EXCEPT** for the bankruptcy court's rejection of the defendants' waiver argument.

Accordingly, summary judgment/judgment on the pleadings is **GRANTED** in favor of the defendants on count one (negligence) and count three (aiding and abetting in breaches of fiduciary duties) of the plaintiff's complaint. Summary judgment/judgment on the pleadings is **DENIED** on count two (breach of fiduciary duty), but the plaintiff's remedy, in the event that liability is found, is limited to possible fee forfeiture. Furthermore, the defendants' objection to the bankruptcy court's recommendation that the defendants' entire waiver defense be rejected is

**SUSTAINED.** The court concludes that there remains a triable issue of material fact concerning whether the plaintiff waived his right to damages for the defendants' alleged breaches of their fiduciary duty after February 27, 2009, so summary judgment on that issue is **DENIED.**

**SO ORDERED.**

September 17, 2014.

  
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A. JOE FISH  
Senior United States District Judge